



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0439; FRL-9870-02-R9]

Air Plan Approval; California; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the San Diego County Air Pollution Control District's (SDCAPCD or "District") portion of the California State Implementation Plan (SIP). This revision concerns a negative declaration for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) in the ozone nonattainment area under the jurisdiction of the SDCAPCD and one volatile organic compound (VOC) rule covering transfer of organic compounds into mobile transport trucks. We are approving a local rule to regulate these emission sources under the Clean Air Act (CAA or "the Act") and the negative declaration. We are also correcting sections in the Code of Federal Regulations (CFR) to reflect the current status of certain provisions of the California SIP.

DATES: This rule is effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0439. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If

you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at *sherman.donnique@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On June 3, 2022 (87 FR 33697), the EPA proposed to approve the following submittals into the California SIP.

Local Agency	Document Title	Adopted /Amended	Submitted
SDCAPCD	Rule 61.2 Transfer of Organic Compounds into Mobile Transport Tanks	02/10/2021	04/20/2021
SDCAPCD	2020 Reasonably Available Control Technology (RACT) Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County, October 2020 – <i>Negative Declaration for Non-CTG Major VOC Sources</i>	10/14/2020	12/29/2020

As mentioned in our proposed action, these submittals correct deficiencies identified in the EPA’s December 3, 2020 (85 FR 77996) partial disapproval of SDCAPCD’s 2008 Eight-Hour Ozone Reasonably Available Control Technology Demonstration for San Diego County (“2008 RACT SIP”). SDCAPCD Rule 61.2 is designed to decrease VOC emissions during the transfer of liquid compounds into mobile transport tanks. The submitted negative declaration is a

formally adopted declaration that there are currently no sources of VOC emissions in the portion of the ozone nonattainment area regulated by SDCAPCD that exceed the 100 tons per year VOC threshold for Moderate ozone nonattainment areas and are not covered by a Control Techniques Guidelines (CTG) document. We proposed to approve these submittals because we have determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the submittals and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During the comment period we received one comment in support of the EPA's June 3, 2022 proposed action.

III. EPA Action

No comments were submitted that change our assessment of the submittals as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving into the California SIP SDCAPCD's negative declaration for non-CTG major VOC sources for the 2008 RACT SIP Moderate area requirements and Rule 61.2. The February 10, 2021 version of Rule 61.2 will replace the previously approved version of this rule (amended July 26, 2000) in the SIP. The approval of these submittals stops all sanctions and Federal implementation plan clocks started by our December 3, 2020 (85 FR 77996) partial disapproval action on the SDCAPCD 2008 RACT SIP. We are also correcting an error in the CFR concerning another deficiency previously identified in the SDCAPCD 2008 RACT SIP that has since been addressed by the State of California. In our rulemaking promulgating that approval, we failed to remove the language in the CFR that codified the disapproval, which could result in public confusion about the status of the California SIP.

On October 22, 2021 (86 FR 58593), the EPA published a final rule entitled "Air Plan Approval; California; San Diego Air Pollution Control District" that approved revisions to the SDCAPCD portion of the California SIP. That rule approved the February 10, 2021 versions of

Rule 67.6.1 and Rule 67.6.2 into the California SIP, replacing previously approved versions of these rules. The revision to Rule 67.6.1 fixed the deficiency identified in our partial disapproval of SDCAPCD's 2008 RACT SIP with respect to the requirement to establish RACT-level controls for sources covered by the "Control Techniques Guidelines for Industrial Cleaning Solvents" (85 FR 77996). However, the EPA's final rule inadvertently failed to include amendatory instructions to remove the industrial cleaning solvents category from the regulatory text at 40 CFR 52.237(b)(2)(i)(D), where it is listed as a disapproved element of SDCAPCD's RACT SIP. This action corrects the regulatory text to reflect the current status of SDCAPCD's RACT SIP.

In this rule, the EPA will remove the industrial cleaning solvents CTG category from the regulatory text at 40 CFR 52.237(b)(2)(i)(D), as SDCAPCD has met its RACT SIP obligations with respect to this CTG category (86 FR 58593). The EPA has determined that this action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to public interest. Public notice and comment for this action is unnecessary because the underlying rules were already subject to a 30-day comment period, and this action is merely updating the regulatory text accordingly. Further, this action is consistent with the purpose and rationale of the final rules. Because this action does not change the EPA's analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of SDCAPCD Rule 61.2, "Transport of Organic Compounds into Mobile Transport Tanks," revision adopted on February 10, 2021, which regulates VOC emissions during the

transfer of liquid compounds into mobile transport tanks. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *<https://www.epa.gov/laws-regulations/laws-and-executive-orders>*.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days after date of publication in the *Federal Register***]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 16, 2022.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(285)(i)(E)(2), (c)(565)(i)(A)(4), and (c)(584)(ii)(A)(4) to read as follows:

§ 52.220 Identification of plan - in part.

* * * * *

(c) * * *

(285) * * *

(i) * * *

(E) * * *

(2) Previously approved on August 26, 2003, in paragraph (c)(285)(i)(E)(1) of this section and now deleted with replacement in paragraph (c)(565)(i)(A)(4) of this section, Rule 61.2, amended on July 26, 2000.

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(565) * * *

(i) * * *

(A) * * *

(4) Rule 61.2, “Transport of Organic Compounds into Mobile Transport Tanks,” revision adopted on February 10, 2021.

* * * * *

(584) * * *

(ii) * * *

(A) * * *

(4) Negative Declaration for Major Non-CTG Stationary Sources of VOC, as submitted in the

2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County, adopted on October 14, 2020, for the 2008 ozone NAAQS.

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3. Section 52.222 is amended by revising paragraph (a)(5)(ii) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(5) * * *

(ii) The following negative declarations for the 2008 ozone NAAQS were adopted by the San Diego County Air Pollution Control District.

Table 4 to Paragraph (a)(5)(ii) - Negative Declarations for the 2008 Ozone NAAQS

CTG Document No.	Title	Adopted: 12/14/2016 Submitted: 4/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: [insert date of publication in the <i>Federal Register</i>]
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks (Automobiles, and light-duty truck coatings only)	X		
EPA-450/2-77-025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and	X		

CTG Document No.	Title	Adopted: 12/14/2016 Submitted: 4/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: [insert date of publication in the <i>Federal Register</i>]
	Process Unit Turnarounds			
EPA-450/2-77-032	Control of Volatile Organic Emissions from Existing Stationary Sources - Volume III: Surface Coating of Metal Furniture	X		
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources - Volume IV: Surface Coating of Insulation of Magnet Wire	X		
EPA-450/2-77-034	Control of Volatile Organic Emissions from Existing Stationary Sources - Volume V: Surface Coating of Large Appliances	X		
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products		X	
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires	X		
EPA-450/2-78-032	Control of Volatile Organic Emissions from Existing Stationary Sources - Volume VII: Factory Surface Coating of Flat Wood	X		

CTG Document No.	Title	Adopted: 12/14/2016 Submitted: 4/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: [insert date of publication in the <i>Federal Register</i>]
	Paneling			
EPA-450/2-78-036	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment	X		
EPA-450/3-82-009	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners	X		
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment	X		
EPA-450/3-83-007	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants	X		
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins	X		
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical	X		

CTG Document No.	Title	Adopted: 12/14/2016 Submitted: 4/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: [insert date of publication in the <i>Federal Register</i>]
	Manufacturing Industry			
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry	X		
EPA-453/R-97-004	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations Aerospace MACT, <i>see the Federal Register of 6/6/94</i>	X		
EPA-453/R-06-004	Control Techniques Guidelines for Flat Wood Paneling Coatings	X		
EPA 453/R-07-004	Control Techniques Guidelines for Large Appliance Coatings	X		
EPA 453/R-07-005	Control Techniques Guidelines for Metal Furniture Coatings	X		
EPA-453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings Tables 3-6		X	

CTG Document No.	Title	Adopted: 12/14/2016 Submitted: 4/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: [insert date of publication in the <i>Federal Register</i>]
EPA-453/R-08-004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials		X	
EPA-453/R-08-006	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings	X		
— N/A —	Major non-CTG VOC sources			X

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§ 52.237 [Amended]

4. Section 52.237 is amended by removing and reserving paragraph (b)(2).

[FR Doc. 2022-27871 Filed: 1/13/2023 8:45 am; Publication Date: 1/17/2023]